

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

TREMAIN HOGAN,

Plaintiff,

Case No. 3:23-cv-226

vs.

ANNETTE CHAMBERS SMITH, *et al.*,

District Judge Michael J. Newman

Magistrate Judge Stephanie K. Bowman

Defendants.

ORDER: (1) ADOPTING THE REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE (Doc. No. 40); (2) DENYING PLAINTIFF'S CROSS-MOTION FOR JUDGMENT ON THE PLEADINGS (Doc. No. 32); (3) GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION TO DISMISS (Doc. No. 27); (4) DISMISSING PLAINTIFF'S EQUAL PROTECTION CLAIM; (5) STAYING PLAINTIFF'S REMAINING PROCEDURAL DUE PROCESS CLAIMS; AND (6) DIRECTING PLAINTIFF TO FILE WRITTEN NOTICE AND A MOTION TO LIFT THE STAY WITHIN THIRTY DAYS AFTER THE PARALLEL STATE COURT CASE HAS BEEN CLOSED

The Court has reviewed the Report and Recommendation of Magistrate Judge Stephanie K. Bowman (Doc. No. 40), to whom this case was referred pursuant to 28 U.S.C. § 636(b). The parties have not filed objections to the Report and Recommendation and the time for doing so under Fed. R. Civ. P. 72(b) has expired. Accordingly, the Court: (1) **ADOPTS** the Report and Recommendation of the Magistrate Judge (Doc. No. 40) in its entirety; (2) **DENIES** Plaintiff's cross-motion for judgment on the pleadings (Doc. No. 32); (3) **GRANTS in part and DENIES in part** Defendant's motion to dismiss (Doc. No. 27); (4) **DISMISSES** Plaintiff's equal protection claim for failure to state a claim upon which relief can be granted; (5) **STAYS** Plaintiff's remaining procedural due process claims under *Morrissey v. Brewer* pending final resolution of Plaintiff's parallel case in state court; and (6) **DIRECTS** Plaintiff to file written notice and a motion to lift

the stay within thirty days after the parallel state court case has been closed. Plaintiff is placed on notice that if he does not timely file a motion to lift the stay, this case may be dismissed for failure to prosecute.

IT IS SO ORDERED.

July 2, 2024

s/ Michael J. Newman
Michael J. Newman
United States District Judge